

Applicant(s)	McCallister	EXAMINER INTERVIEW SUMMARY
Serial No.	10/718,505	
Filing Date	11/20/2003	
Group Art Unit	2611	
Examiner Name	Jean B Corrielus	
Confirmation No.	1245	
Attorney Docket No.	125.136USR1	
Title: CONSTRAINED-ENVELOPE TRANSMITTER AND METHOD THEREFOR		

On January 4, 2011, Applicant's representative, David Fogg (Registration Number 35138), contacted Examiner Fan and requested that Examiner Fan review the current office action issued by Examiner Corrielus in light of the file history of this application. Examiner Fan agreed to review the matter. On January 24, Applicant's representative contacted Examiner Fan again. Examiner Fan indicated that he had completed his review of the matter. Examiner Fan indicated that he had considered two primary issues in the matter:

- (1) Assignor Estoppel; and
- (2) Enablement of the May reference.

On both issues, Examiner Fan indicated that the issues raised policy concerns better addressed by the Board rather than the Examiner or his supervisor.

As for Assignor Estoppel, Examiner Fan indicated that he was not aware of any instance of this doctrine being applied during prosecution of an application at the patent office. Rather, he opined that this is an issue reserved to litigation. Applicant's representative responded that the principles of Assignor Estoppel should apply at the PTO as well as in litigation. To hold otherwise would work an injustice on the purchaser of a patent if his patent could be shot down by the assignor during a reissue proceeding as in the present application. Examiner Fan indicated he considered this a policy decision to be addressed by the Board.

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As to enablement, Examiner Fan stated that enablement is not required for publications used as prior art because enablement is only required when patents are used as prior art. Applicant's representative argued that enablement is required for all prior art irrespective of the nature of the reference. If enablement were not required, then a patent could be blocked by a reference that does not provide the public with the same knowledge included in the patent application. Applicant's representative attempted to contact Examiner Fan on January 25 but only reached his voice mail. Applicant's representative left a message pointing Examiner Fan to MPEP section 2121 which states that all prior art, patents and literature, must meet the enablement requirement.

Applicant's representatives believe the foregoing summary accurately reflects the substance and scope of the telephone interview on January 4, 24, and 25, 2011. Applicant requests notification if the Examiner disagrees with the accuracy or completeness of this summary

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at 952-465-0796.

Respectfully submitted,

Date: January 26, 2011

/David N. Fogg/
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